HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 799 of 2004 (MS)

Purhsotam Lal ..... Petitioner

Versus

Tarsem Singh & others ..... Respondents

Dated: 25.8.2004

Hon. Rajesh Tandon J.

Heard the learned counsel for the parties.

By the present writ petition the petitioner has prayed for a writ of certiorari quashing the order dated 6.8.2004 passed by the Civil Judge (JD), Dehradun.

Brief stated the facts giving rise to the present writ petition are that a suit was filed by the petitioner for permanent injunction restraining the defendants from interfering in the possession of the plaintiff over the land in suit.

During the pendency of the suit, the plaintiff has sought for the amendment in the plaint. The amendment application has been rejected by the trial Court. The petitioner has filed the present writ petition.

Apex Court in *B.K. Narayan Pillai vs. Parameshwaran Pillai and another (2000) 1 SC Cases 712* has emphasised that

technicalities of law should not be permitted to hamper the court in administration of justice between the parties.

Amendments are allowed in the pleadings to avoid uncalled multiplicities of litigation. In the case *Raghu Thilak D. John vs. S. Rayappan And others (2001) 2 S.C. Cases 472* the Apex Court has held as under:

"If the aforesaid test is applied in the instant case, the amendment sought could not be declined. The dominant purpose of allowing the amendment is to minimise the litigation. The plea that the relief sought by way of amendment was barred by time is arguable in the circumstances of the case, as is evident from the perusal of averment made in paras 8(a) to 8(f) of the plaint which were sought to be incorporated by way of amendment. We feel that in the circumstances of the case the plea of limitation being disputed could be made a subject matter of the issue after allowing the amendment prayed for."

In view of the proposition of law the learned Civil Judge is directed to examine the amendments sought by the petitioner and after hearing both the parties pass appropriate order.

Subject to the aforesaid observation, the writ petition is disposed of. No order as to costs.

(Rajesh Tandon J.)

25.8.2004

*Dhyani